



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,563	02/29/2008	Lucas Huybrechts	50304/129001	6509
21559	7590	06/09/2009	EXAMINER	
CLARK & ELBING LLP 101 FEDERAL STREET BOSTON, MA 02110			LIU, SAMUEL W	
			ART UNIT	PAPER NUMBER
			1656	
			NOTIFICATION DATE	DELIVERY MODE
			06/09/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

Office Action Summary	Application No. 10/586,563	Applicant(s) HUYBRECHTS, LUCAS	
	Examiner SAMUEL W. LIU	Art Unit 1656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-21 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/24/08 & 7/18/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of claims

Claims 18-21 are pending.

The preliminary amendment filed 10/22/08 which cancels claims 1-17, and adds claims 18-21 has been entered. Claims 18-21 are examined in this Office action.

Foreign priority

Applicants' claim for foreign priority under 35 U.S.C. 119 (a)-(d) is acknowledged. The copy of the Belgium 2004/0028 filed 1/19/04 has been received and considered.

IDS

The references cited in the IDS filed 9/24/08 and the IDS filed 7/18/06 have been considered by Examiner.

Objection to specification

The disclosure is objected to because of the following informalities:

(1) The continuing data of the specification needs to be updated.

(2) At page 5, the description of "Fig.9" need to be modified to indicate that the figure 9 shows the result of the "Knoop experiment" but not the "experiment" *per se*.

(3) At page 18, paragraph 3, line 2, "Na.sub.4 P.sub.2 O.sub.7" should be changed to "Na₄P₂O₇" (sodium diphosphate); similar changes should be made throughout the specification.

(4) At page 22, the 3rd paragraph, line 7, "310°K" should be changed to "310 K".

Objection to drawings

Comment [a1]: I don't understand what you are trying to say. The claim seems perfectly appropriate.

Response:
Agree to delete this objection.

Deleted: "

Art Unit: 1656

The drawing (filed 7/18/06) of Fig. 9 is objected to because of lacking the label of horizontal axis and the absence of label for " μm ". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. Alternatively, the specification could be amended to describe the subpanels. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC §102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1656

Claims 18- 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Domke et al. (US Pat. No. 5587147).

Domke et al. teach us of the zinc-polyamine complex delivering to oral cavity to combat mouth odor, i.e., halitosis (see col. 4, lines 8-14); wherein the “polyamine” is polylysine (col. 3, line 26). This anticipates claim 18.

Comment [a2]: please indicate where the polylysine is taught. If it is not taught, this is not a 102.

Response: col. 3, line 26.

The zinc-polyamine complex is in aqueous solution (col. 3, line 23) which is formulated into toothpaste by blending with dentifrice ingredient such as sweetener (col., 3, lines 56-59), which anticipates claims 19-21.

Conclusion

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel Wei Liu whose telephone number is 571-272-0949. The examiner can normally be reached from 9:00 a.m. to 5:30 p.m. on weekdays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Andrew Wang can be reached on 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 703 308-4242 or 703 872-9306 (official) or 703 872-9307 (after final). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-4700.

/Samuel Wei Liu/

Patent Examiner, Art Unit 1656

/Andrew Wang/

Supervisory Patent Examiner, Art Unit 1656

